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January 20, 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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By Messenger

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W. , Room TW-A325  
Washington, D.C. 20554

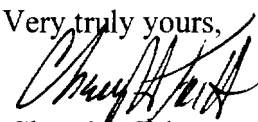
Re: **EX PARTE**  
ET Docket 95-18

Dear Ms. Salas:

On January 20, 2000, Richard Greco, chief executive officer, Francis Coleman, and the undersigned, all representing ICO Global Communications ("ICO"); Russ Daggatt, vice chairman, and Larry Williams, vice president of international and governmental affairs, both representing Teledesic; and Peter Hadinger of TRW, representing the ICO USA Service Group ("IUSG"), met in separate meetings with Commissioner Susan Ness and her senior legal advisor, Mark Schneider; and with Commissioner Michael Powell and his senior legal advisor, Peter Tenhula, to discuss the above-captioned proceeding. Specifically, the parties addressed their comments to the points made in the attached outline.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, an original and one copy of this letter are provided to the Secretary for inclusion in the record in the above-captioned proceeding.

Very truly yours,



Cheryl A. Tritt  
Counsel to ICO Global Communications

No. of Copies rec'd 0+1  
List A B C D E

Ms. Magalie Roman Salas  
December 23, 1999  
Page Two

cc: Susan Ness  
Michael Powell  
Mark Schneider  
Peter Tenhula

## **ICO/Teledesic Joint Presentation**

### **FCC Commissioners**

**January 19, 2000**

#### **I. New Investors Strengthen ICO's Financial Status**

- A. Bankruptcy Court has approved an agreement reached on October 31, 1999 under which Craig McCaw and his affiliated companies ("McCaw") will provide, subject to the satisfaction of certain conditions, \$225 million in Tranche I debtor-in-possession ("DIP") financing, \$275 million in Tranche II DIP financing, and \$700 million in exit financing. Under the approved agreement, a total investment of up to \$1.2 billion will be available to fund build-out of ICO's 2 GHz mobile satellite (MSS) system and provide working capital through launch of ICO's satellites.
- B. McCaw is expected to assume majority control of ICO following the company's emergence from bankruptcy, contemplated to occur in second quarter, 2000.

#### **II. ICO's First Launch Is Imminent**

- A. ICO F-1 satellite is expected to be launched late February/ early March 2000 on Boeing Sea Launch booster. Satellite has been shipped to the Boeing California facility.
- B. Commercial operations are expected to begin in 2001.
- C. ICO urgently needs a) remaining FCC grants for SAN 5/7 GHz TT&C related operations (already applied for) and b) temporary approvals for the SAN at 5/7 GHz and 2 GHz to test its system after launch. Requests for special temporary authority for SAN earth station operations will be filed this week.

#### **III. FCC 2 GHz Relocation Order Will Dramatically Impact MSS Market**

- A. Global satellite systems, *e.g.*, MSS, are fundamentally different from terrestrial wireless systems, *e.g.*, personal communications services (PCS), and should not be subjected to relocation obligations in most cases.
  - 1. MSS systems have different spectrum use and customer characteristics. For example, **\$100 million of relocation costs** imposed upon MSS providers in the U.S. would increase per minute costs by **41 cents**, assuming the costs are amortized over a 3 year period with a U.S. customer base of 266,250 customers using the system 50 minutes a month. Even with the same relocation cost burden, PCS costs would increase only **\$0.01** a minute due to a much broader PCS customer base.

2. Global MSS systems must be authorized in more than 100 countries. Other Administrations will follow the FCC's lead, increasing the impact of the U.S. relocation costs many times over.
- B. ICO/McCaw are examining the addition of cutting edge data transmission capabilities to the ICO handsets. This application will reduce further ICO's ability to share with fixed microwave incumbents in the 2 GHz downlink bands, which in turn could dramatically increase any relocation costs.
  - C. Onerous relocation costs will compromise ICO's ability to serve underserved and unserved areas of the United States.

#### **IV. Relocation Impact Must Be Lessened, *If It Cannot Be Avoided As A Matter of Law***

- A. MSS is sufficiently distinct from PCS to require reexamination of the FCC's emerging technologies approach. 2 GHz order will set the stage for relocation issues in other new satellite service proceedings.
- B. Canadian approach is fairer and less onerous, *e.g.*, two-year notice period after which fixed microwave incumbents are responsible for self relocation. New entrants can negotiate incentives for incumbents to relocate before the notice period expires.
- C. Other approaches also reduce the impact of relocation costs.
  1. 2 GHz MSS spectrum in uplink and downlink bands may be cleared in two phases. If early entrants do not require spectrum assigned later in phase 2, they should not have to pay relocation costs of incumbents relocated in phase 2.
  2. In phase 1 in the uplink band only the top 30 broadcasting markets need to be cleared and rechannelized. Remaining markets do not require the use of all seven available electronic newsgathering channels at 2 GHz and simply can avoid the use of channel 1. Rechannelization of the remaining markets can be delayed until phase 2 is initiated.
  3. Later entering MSS operators must pay their fair share of relocation costs to earlier MSS entrants before initiating service.

#### **V. Relocation Impact Can Be Lessened By Using Remaining Useful Life**

- A. Remaining useful life valuation method should be applied to eligible incumbent equipment that must be replaced, *if* as a matter of law new entrants are required to relocate incumbent licensees.
  1. Economic studies support approach as an acceptable cap in a partial takings situation.

2. Legal precedent supports remaining useful life as a cap in both a partial takings situation and in a torts context when the incumbent has specific equipment replacement plans in place.
3. Approach is essential to bring 2 GHz relocation costs into the zone of potential affordability.

**VI. Surrogate Values Offer a Fair, Simple and Expeditious Way to Value Replaced Equipment and Virtually Eliminate Transaction Costs**

- A. **Uplink** - Compensation for replacement of equipment in the uplink bands more than 10 years old could be made at a flat rate of \$2300. Equipment less than 10 years old would be presumed to be retunable at a lower cost.
- B. **Downlink** - Surrogates can be readily calculated for the three categories of fixed microwave equipment:
  - (a) In band retunable equipment.
  - (b) Relocation of common carrier digital radio systems.
  - (c) Relocation of Private Operational Service analog radio systems.